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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/862,722	05/23/2001	Valdemar Zawadzki	010315-151	1183

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EXAMINER
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SIMONE, CATHERINE A

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 11/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/862,722

Applicant(s)

ZAWADZKI ET AL.

Examiner

Catherine Simone

Art Unit

1772

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 September 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: \_\_\_\_\_

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☐ Other: \_\_\_\_\_

**Advisory Action**

***Response to Arguments***

Applicant's arguments filed 9/27/04 have been fully considered but they are not persuasive. Applicants state that "It is important to note that Trokhan et al. compares the basis weight of the Trokhan process to that of a prior art process and indicates that as a result of the Trokhan process there is a more uniform basis weight distribution. However, Trokhan et al. does not state that there is a uniform basis weight distribution, merely that it is more uniform than with the prior art process." However, it is to be pointed out that Trokhan et al. does teach a fiber web having a uniform basis weight distribution. In column 2, lines 54-58, Trokhan et al. discloses the paper sheet of his invention to have "a more uniform basis weight distribution and a more uniform density distribution" compared to that of the prior art. Even though Trokhan et al. discloses his paper sheet to have "a *more* uniform basis weight distribution" compared to that of the prior art, the fact remains that Trokhan et al. is disclosing the basis weight distribution to be uniform in the fiber web. Therefore, Trokhan et al. clearly teaches a fiber web having a uniform basis weight distribution. Furthermore, it is to be noted that the fiber web of Trokhan et al. would inherently have a uniform porosity since the fiber web of Trokhan et al. is formed of a similar material and produced in a similar manner to that of the present invention.

Applicants further state that "it is not clear which element in Trokhan et al. is alleged to correspond to the claimed fabric. If the Examiner alleges that the sheet 30 corresponds to the claimed fabric. Applicants submit that the sheet 30 has no permanent deformation, as required by claim 15." However, it is to be pointed out that the sheet 30 of Trokhan et al. is being referred to

as the claimed fabric and it exhibits permanent deformation. In column 8, lines 33-36, Trokhan et al. discloses the sheet 30 to be a “deformable non-resilient sheet”. Therefore, the sheet 30 of Trokhan et al. would have permanent deformation when and after pressure is applied. Thus, Trokhan et al. clearly teaches a fluid-pervious fabric with a permanent deformation.

Applicants further argue that “there is no teaching or suggestion that either of the belt 20 or the sheet 30 in Trokhan et al. be substituted with the materials of Van Phan. The Examiner’s combination is based purely on hindsight without any adequate teaching or suggestion in the prior art.” In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Van Phan was merely cited for suggesting that it is old and well-known in the art to have polymers having a softening temperature to be used in the making of fiber webs. It is to be pointed out in column 4, lines 54-57 of the Van Phan reference that thermoplastic polymers, i.e. polyamide-epichlorohydrin resins, are taught and are used to produce fiber webs and it is well-known in the art that all thermoplastic polymers have softening temperatures. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the fiber web in Trokhan et al. with a polymer having a softening temperature as suggested by Van Phan in order to produce a fluid-pervious fabric. One skilled in the art would clearly add a polymer with a softening temperature to the fibers of the fiber web in

Trokhan et al. to produce a fluid-pervious fabric, if so desired. Thus, the claims fail to patentably define over the prior art as applied above.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine Simone whose telephone number is (571)272-1501. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Catherine Simone  
Examiner  
Art Unit 1772  
November 3, 2004



HAROLD PYON  
SUPERVISORY PATENT EXAMINER  
1772

11/4/04